

DRAFT AMENDMENT**REMARKS**

Applicant respectfully requests reconsideration of the above identified application in view of the foregoing amendments and following remarks.

Status of the Claims

Claims 1-2, 6-18, 23-31 have been cancelled previously. Claims 3, 4, 19 and 22 have been amended. Consequently Claims 3-5 and 19-22 are pending. Applicants respectfully assert that these amendments add no new matter.

35 U.S.C. § 101 Rejections

In the Office Action, the Examiner rejected Claims 3-5 and 19-22 under 35 U.S.C. § 101 because the method claims are not tied to another statutory class nor do they transform the underlying subject matter to a different state or thing. Applicant respectfully submits that the rejection of Claims 3-5 and 19-22 under 35 U.S.C. § 101 should be withdrawn.

In the Office Action, the Examiner refers to independent claims 3, 5 and 19 as being drawn to a process. Applicant respectfully submits that currently amended independent claims, including independent claim 22, each recite a process sufficiently to overcome the rejection under 35 U.S.C § 101.

Since 1976 516 patents with the title "Card Game" have been issued, others with a title "video Poker game" have been issued and have been commercially successful (see for example U.S. Patent 5,823, 873 by Ernest W. Moody). At least 19 have been issued since the Bilski decision in which the title included "card game" or

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“poker” and many had claims directed to methods of play. See the following allowed claims:

US Patent No. 7,469,901

“A method of playing a card game between two players, comprising: providing a card deck having a plurality of character playing cards each having an offense points section for displaying a numerical value for offense points and a protect points section for displaying a numerical value for protect points; dealing a hand of said plurality of character playing cards to each of an attacking player and a defending player; having said attacking player and said defending player sequentially present said hand of said plurality of character playing cards; determining point differences between said numerical value for offense points for said hand of said attacking player and said numerical value for offense points for said hand of said defending player; awarding points corresponding to said point differences to said attacking player when said numerical value for offense points for said hand of said attacking player is higher than said numerical value for offense points for said hand of said defending player; and announcing a winner when first one of said attacking player and said defending player accumulates a total point of 4,000.”

U.S. Patent No. 7,455,297:

“A method of playing a game of chance involving up to six players and a dealer, wherein each player plays against the dealer, and using a deck of cards including at least the 52 cards of a standard deck, said method comprising: placing a wager by each of the six players; dealing, by the dealer, a total of seven cards to the dealer and a total of seven cards to each of the six players; arranging of the cards, by the dealer and each player, into a low hand of one card, a medium hand of two cards and a high hand of four cards so that, during play, poker hands of four of a kind and two pair can be formed in forming the four card high hand depending on the cards that are dealt, wherein the medium hand must be higher in rank than the low hand and the high hand must be higher in rank than the medium hand, individually comparing each of the low, medium and high ranks of each player with the low, medium and high hands of the dealer; determining a winner between each player and the dealer when at least two out of the three hands of one is of higher rank than the corresponding hands of the other, and taking the wager of the player by the dealer when the dealer is determined to be the winner, and paying, by the dealer, the amount of the wager by a player to a player determined to be the winner.”

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U.S. Patent No. 7448630:

“A method comprising: dealing P pocket cards to each of a plurality of players from a deck of cards having N ranks and four suits, N being different than 13, the P pocket cards being used by the each of the players to form a five-card poker hand, providing a plurality of predetermined poker hands, all of the plurality of predetermined poker hands having different rankings according to a probability of occurrence, the probability of occurrence being determined based on N, wherein a flush hand, not including a straight flush hand or a royal flush hand, being ranked higher than a full house hand; making a first betting round among the plurality of players, the first betting round contributing to a pot; dealing F flop cards seen by the plurality of players, the F flop cards being communal to the players; and making a second betting round among the players, the second betting round contributing to the pot.”

See also U.S. Patent No 7,487,970.

If these claims are allowable with respect to 35 U.S.C. § 101, then so are the current claims.

The transformation that occurs in these patented games involves the state of play of the game. At the outset of a game, a player is dealt an initial hand, one or more actions relating to the player's hand occurs, and the resulting hand is evaluated. Thus the transformation is of the state of the player's hand which may transform from one that is a losing hand by a set of poker rules to a winning hand. There is no underlying transformation of the playing cards.

Applicant's disclosed methods recite the same type of transformation for a player's hand in a novel and previously undisclosed method of game play. Additionally, the playing cards themselves are novel. Thus, Applicant's invention is novel and original on two bases.

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Each of claims 4, 20, and 21 depends from one of claims 3 and 19 and include all of the limitations of their respective independent claim as well as additional features, and are likewise allowable.

Therefore, Applicant respectfully submits that claims 3-5 and 19-22 are allowable under 35 U.S.C § 101.

Conclusion

In view of the foregoing amendment and remarks, and for at least the reasons discussed above, Applicants respectfully submit that the claims are allowable. Their favorable reconsideration and allowance are respectfully requested.

The Examiner is invited to telephone the undersigned to discuss any still outstanding matters with respect to the present application.

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Respectfully submitted,

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